

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JULIE DELANEY and
WILLIAM P. DELANEY

Plaintiffs,

v.

ELI LILLY AND COMPANY,

Defendant.

CIVIL ACTION No. 05-CV-10241 (MLW)
Next Event: Pretrial Conference on
June 1, 2007 at 2:30 p.m.

PLAINTIFFS' FED. R. CIV. P. 26(a)(3) PRETRIAL DISCLOSURES

COME NOW the Plaintiffs, pursuant to Local Rule 16.5(c) and Fed. R. Civ. P. 26(a)(3),
and hereby submits their Rule 26(a)(3) Pretrial Disclosures:

A. Witness List:

Plaintiffs expect to call the following as witnesses at trial in this cause:

1. Plaintiff Julie Delaney
118 Walnut Street
Middleboro, MA 02346
508-946-5108
2. Plaintiff William P. Delaney
118 Walnut Street
Middleboro, MA 02346
508-946-5108
3. Barbara Ann O'Leary
68 Mandalay Road
S. Weymouth, MA 02190
781-337-3643
(Plaintiff Julie Delaney's mother on exposure, manufacturer identification and damages)

4. Leo F. O'Leary
68 Mandalay Road
S. Weymouth, MA 02190
781-337-3643
(Plaintiff Julie Delaney's father on exposure, manufacturer identification and damages)
5. Philip G. Sullivan, M.D.
489 Shore Road
Monument Beach, MA 02553
508-759-1482
(Plaintiff Julie Delaney's mother's prescribing Obstetrician/Gynecologist)
6. Harris Busch, M.D., Ph.D. (deceased)
(Expert - Liability/State of the Art)
7. Richard J. Falk, M.D.
1588 Lancaster Green
Annapolis, MD 21401
(Expert - Liability/State of the Art)
8. Brian Strom, M.D., M.P.H.
University of Pennsylvania Medical Center
Department of Epidemiology & Biostatistics
824 Blockley Hall, 423 Guardian Drive
Philadelphia, PA 19104
215-898-2368
(Expert - Epidemiology)
9. Elena H. Yanushpolsky, M.D.
Brigham and Women's Hospital
75 Francis Street
Boston, MA 02115
(Treating/Expert - Reproductive Endocrinology)
10. Patricia M. McShane, M.D.
550 S. French Street, Unit 209C
Breckenridge, CO 80424
617-733-4998
(Expert - Reproductive Endocrinology)

11. Harold B. Sparr, R.Ph., M.S.
216 Dimmock Road
Otis, MA 01253
413-269-7510
(Expert - Pharmacy and Manufacturer Identification)
12. James P. DellaVolpe
29 Benedict Road
Buzzards Bay, MA 02532
508-759-2240
(Expert - Wholesaler/Manufacturer Identification)
13. Philip J. Cafferty, R.Ph. (deceased)
(Expert - Pharmacy and Manufacturer Identification)

N.B. Plaintiffs reserve the right to present any of the aforementioned witnesses by de bene esse deposition.

N.B. Plaintiffs will provide Dr. Busch via his videotaped deposition of May 15-16, 2001.

N.B. Plaintiffs will provide Mr. Cafferty via his deposition testimony of August 22, 2003.

N.B. Plaintiffs reserve the right to present Dr. Sullivan via his deposition testimony of June 6, 2005.

N.B. Plaintiffs reserve the right to call any witness(es):

- a. Identified by the Defendant and/or*
- b. Any witness not identified to present rebuttal testimony.*

B. Exhibit List:

Plaintiffs expect to offer the following exhibits in evidence at trial:

1. Selected medical records of Quincy OB/GYN re: Barbara O'Leary (1958-1974)
2. Selected medical records of Quincy Medical Center re: Barbara O' Leary (8/3/70)
3. Selected medical records of Deborah Wooten, M.D. re: Julie Delaney (1994-2003)
4. Selected medical records of South Shore Women's Health/Martha Ehrmann, M.D. re: Julie Delaney (2002-2003)
5. Selected medical records of South Shore Hospital re: Julie Delaney (2001-2003)
6. Selected medical records of Brigham & Women's Hospital re: Julie Delaney (2003)

7. Selected medical records of Boston Health Care for Women/Rafik Mansour, M.D. (2003)
8. Selected medical records of Quincy Family Planning re: Julie Delaney (1989)
9. 1/16/03 HSG Film and Report re: Julie Delaney
10. Brigham & Women's Hospital Billing Statements
11. South Shore Women's Health Billing Statements
12. South Shore Midwifery Billing Statements
13. South Shore Hospital Billing Statements
14. Deborah Wooten, M.D. Billing Statements
15. Boston Health Care for Women Billing Statements
16. Premier Diagnostic Services Billing Statements
17. South Shore Anesthesia Billing Statements
18. Brigham & Women's OB/GYN Billing Statements
19. Adoption Expenses Billing Statements
20. Special Damages Itemization with supporting documentation attached
21. Lilly brochure: "Pharmaquiz," TILE AND TILL, January 1942
22. Pre-Printed prescription blanks with dosage instructions
23. DES Package Insert
24. Lilly advertisement: "Lilly Policy Guide to Better Profits," American Druggist, April 13, 1952; New York State Pharmacist, April 1952
25. Lilly advertisement: "Concentrate on the Lilly Label," Drug Topics, September 13, 1948
26. Lilly advertisement: "It's Your Money that Goes on Your Shelves," American Druggist, May 12, 1952
27. Lilly brochure: Pharmacist's Reference, 1957
28. Lilly publication: DE RE MEDICA
29. Lilly advertisement: "The Upset Family"
30. Lilly brochure: 1947 A Form, "Diethylstilbestrol in Accidents of Pregnancy"
31. Lilly brochure: 1955 A Form, "Diethylstilbestrol in Accidents of Pregnancy"
32. Lilly brochure: 1961 A Form, "Diethylstilbestrol in Accidents of Pregnancy"
33. Lilly brochure: "Stilbestrol," PHYSICIAN'S BULLETIN, Nov.-Dec. 1941
34. Lilly brochure: "Diethylstilbestrol in Cancer Patients," PHYSICIAN'S BULLETIN, Sept.-Oct. 1942
35. Lilly advertisement: "Lilly's Preferred Estrogen Androgen," May 1950
36. Lilly brochure: "Psoriasis," PHYSICIAN'S BULLETIN, July-Aug. 1950
37. Lilly brochure: "Acne," PHYSICIAN'S BULLETIN, July-Aug. 1952
38. Lilly brochure: "Steroid Hormones and Accidents of Pregnancy," PHYSICIAN'S BULLETIN, July-Aug. 1947
39. Lilly brochure: "Diethylstilbestrol-Carcinogenesis," PHYSICIAN'S BULLETIN, Jan.-Feb. 1946
40. DES Bottles/Pills/Labels
41. Defendant's Wholesaler Agreements
42. Selected journal articles from Plaintiffs' J-List (previously provided to defendant)
43. Charts/Documents presented at Dr. Busch's deposition of May 15-16, 2001

44. Chronology Chart
45. Special Damages Chart
46. Plaintiff Julie Delaney's Colorized HSG
47. Colorized Normal HSG
48. Model of T-shaped uterus
49. Model of Normal Uterus
50. Embryologic diagram: Clinic Symposia (CIBA), Vol. 37, 1985, p. 22
51. Colposcopy diagram: Clinica Symposia (CIBA), Vol. 37, 1985, p. 3
52. Transplacental Chart (Studies)
53. Cancer-Causing Chart (Studies)
54. Sexual Tract Abnormalities Chart (Studies)
55. Warnings Chart (Studies)
56. Offspring Follow-up Chart (Studies)
57. Causality Chart (Studies)
58. Proof of Infertility Chart (Studies)
59. Efficacy Chart (Studies)
60. Animal Models Post-Herbst Chart (Studies)
61. 60's Warnings Chart (Studies)
62. Analysis of Efficacy Chart (Studies)
63. Transplacental Chart 2 (Studies)
64. Green, Burrill and Ivy 1939 Chart (Study)
65. Rosenblum 1947 Four Questions Chart (Study)
66. Fur Journal 1950 Chart (Study)
67. Wholesaler Agreement Enlargement
68. Physician's Desk Reference Enlargement
69. "The Upset Family" Enlargement
70. Market Sales of 25mg - NPA v. Conditions Index Chart (1945-1970)
71. Proposed Label Enlargement
72. Public Law 1 - §301 Enlargement
73. Public Law 2 - §505 Enlargement
74. Total DES Exposed Females by Year of Birth Enlargement
75. Embryology Chart
76. Medical-Legal Illustration - Normal Female Reproductive Anatomy
77. Medical-Legal Illustration - GYN Exam;
78. DES as a Delayed Carcinogen and Teratogen Chart
79. DES Sequela Chart
80. Medical-Legal Illustration - DES Abnormalities
81. Netter - DES Syndrome Chart
82. Blow-Up of Adenosis (Herbst & Bern) and
83. Poor Pregnancy Outcomes/Reproductive Tract Abnormalities Diagram

N.B. Plaintiffs reserve the right to place the literature studies themselves into evidence in the event the above charts are held inadmissible.

Respectfully submitted,

/s/ Erica Tennyson

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Counsel for Plaintiffs

May 2, 2007

CERTIFICATE OF SERVICE

I, Erica Tennyson, hereby certify that this Plaintiffs' Fed.R.Civ.P. 26(a)(3) Pretrial Disclosures, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 2, 2007.

/s/ Erica Tennyson

Erica Tennyson (BBO #660707)